

PATENT
Customer No. 22,852
Attorney Docket No. 04329.3243

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Hirofumi KANAI

Group Art Unit: 2432

Patent No.: 7,603,567 B2

Examiner: Venkatanaray

Issued: October 13, 2009

PERUNGAVOOR

For: INFORMATION PROCESSING
SYSTEM AND INFORMATION
PROCESSING METHOD

Conf. No.: 9081

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPLICATIONS FOR PATENT TERM ADJUSTMENT—POST GRANT

Applicant hereby applies for the following two patent term adjustments:

**I. APPLICATION FOR PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705 (b)**

In accordance with 37 C.F.R. § 1.705(b), Applicant hereby applies for patent term adjustment under 35 U.S.C. § 154(b) of 78 days. This application is being filed within two months of issuance of the above patent, as required by 37 C.F.R. § 1.705(d).

Statement of the Facts Involved

A. Correct Patent Term Adjustment

According to information printed on the face of the above-identified issued patent, this patent is entitled to 812 days of patent term adjustment.

Applicant has calculated a patent term adjustment of 891 days based on the following facts:

The above-identified application was allowed on June 2, 2009, and applicant was entitled to a patent term adjustment of 898 days at that time.

The Examiner failed to acknowledge applicant's claim for priority during prosecution. Therefore, a copy of the first page of the certified copy of the foreign priority document along with a copy of the postcard filed with the certified copy of the foreign priority document stamped by the U.S. Patent and Trademark Office to indicate receipt of the priority document, was faxed to Examiner Barron on July 13, 2009.

The Examiner mailed a Supplemental Notice of Allowability acknowledging Applicant's claim for foreign priority on July 20, 2009.

The Examiner also mailed a Priority Acknowledgement on July 20, 2009.

The issue fee was paid on September 1, 2009.

The Issue Notification was sent September 23, 2009, and Applicant's patent term adjustment had been reduced by 86 days.

The patent's issue date is October 13, 2009.

Thus, the total patent term adjustment based on PTO delay is 900 days and the reduction in patent term adjustment is 9 days, resulting in a patent term adjustment of 890 days total. Applicant respectfully requests that the current patent term adjustment be reconsidered.

B. Terminal Disclaimer

The above-identified application is not subject to a Terminal Disclaimer.

C. Reasonable Efforts

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing of examination of the above-identified application, as set forth in 37 C.F.R. § 1.704.

Fee

If there are any fees due in connection with the filing of this request, including a fee for filing this request for patent term adjustment, please charge them to our Deposit Account No. 06-0916.

**II. APPLICATION FOR PATENT TERM ADJUSTMENT UNDER
WYETH v. DUDAS DECISION**

The U.S. Patent and Trademark Office (PTO) issued the subject U.S. Patent No, 7,603,567 B2 (the '567 patent) with a patent term adjustment of 812 days. Applicant filed a Request for Continued Examination on June 30, 2008. Applicant paid the Issue Fee on September 1, 2009. The patent issued on October 13, 2009. The three year pendency date for determination of patent term adjustment is February 18, 2007.

In view of the decision of the Federal District Court for the District of Columbia in *Wyeth v. Dudas* on September 30, 2008, patentee submits it is entitled to a total patent term adjustment of 1160 days which is the sum of 269 days of patent term adjustment due to exceeding three year pendency, 900 days due to U.S. PTO delay in prosecution, minus 10 days due to applicant delay.

Fee


If there are any fees due in connection with the filing of this request, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.



Dated: December 14, 2009

By: 
Richard V. Burgujian
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Enclosures
RVB/FPD/klm

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